

10/03/689

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of Correction

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Date: September 27, 2005

Pages: 7

Fax No.: ~~703-872-9306~~

From: Lawrence E. Laubscher, Jr.

571-273-8300

In re patent of

Nobuhiro KOBAYASHI et al.

U.S. Patent No. 6,945,240

Issued: September 20, 2005

For: EXHAUST GAS RECIRCULATION APPARATUS AND EXHAUST GAS  
RECIRCULATION METHOD FOR INTERNAL COMBUSTION ENGINE

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PATENTS

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent of

Nobuhiro KOBAYASHI et al.

U.S. Patent No. 6,945,240

Issued: September 20, 2005

For: EXHAUST GAS RECIRCULATION APPARATUS AND EXHAUST GAS  
RECIRCULATION METHOD FOR INTERNAL COMBUSTION ENGINEREQUEST FOR CERTIFICATE OF CORRECTION OF OFFICE MISTAKECommissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In accordance with 37 CFR 1.322, Applicant respectfully requests that either a corrected Patent or a Certificate of Correction be issued for U.S. Patent No. 6,945,240.

The patent application which matured into the subject patent was a U.S. national application filed under 35 U.S.C. 111(a) with a filing date of 22 January 2002 per the Decision issued on May 18, 2004 (copy attached) in response to a Request to Treat Application Under 35 U.S.C. 111(a) and Correct Filing Receipt. Due to an office error, the Office records were never corrected and the patent issued with the incorrect filing date and filing basis.

The correct filing particulars are as follows:

Application filed: January 22, 2002  
under 35 U.S.C. 111(a)

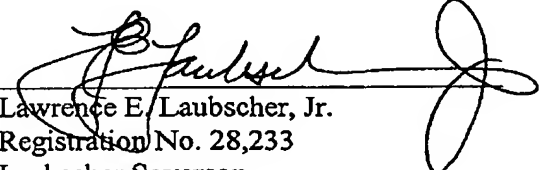
A draft Certificate of Correction is submitted herewith. However, it is requested that a new patent certificate be issued with the correct filing information and that the patent term be recalculated.

OCT 03 2005

As this was an Office error, it is our belief that no fee is required. Nevertheless, please charge any fees for issuance of the corrected patent or credit any overpayment to Account No. 50-1936.

Respectfully submitted,

September 27, 2005



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**CERTIFICATE OF TRANSMISSION**

I hereby certify that this correspondence consisting of 7 pages (including cover) is being transmitted to the U.S. Patent and Trademark Office at facsimile No. 571-273-8300 on September 27, 2005.

Shelly Hubbard

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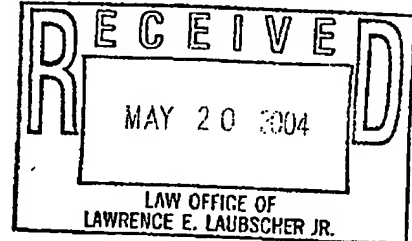
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18 MAY 2004  
UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of  
KOBAYASHI et al  
Application No.: 10/031,689  
Filing Date: 22 January 2002  
For: EXHAUST GAS RECIRCULATION  
APPARATUS AND EXHAUST GAS  
RECIRCULATION METHOD FOR  
INTERNAL COMBUSTION ENGINE

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DECISION ON  
PETITION

This is a decision on the "REQUEST TO TREAT APPLICATION UNDER 35 U.S.C. 111(a) AND CORRECT FILING RECEIPT," filed 04 October 2002. Decision is Granted.

Background

On 30 March 2001 applicants filed an international application No. PCT/JP01/02820 which claimed a priority date of 24 May 2000 and which designated the United States.

On 22 January 2002, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the requisite basic national fee as required by 35 U.S.C. 371(c)(1), and a purported translation into English of the international application as required by 35 U.S.C. 371(c)(2). A copy of the international application as required by 35 U.S.C. 371(c)(2) was communicated by the International Bureau. The first page of the translated specification additionally included an identification of the application as being a continuation of PCT/JP01/02820.

On 03 April 2002, the United States Designated/Elected Office (DO/EO) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by International application number and international filing date, must be submitted within two months of the date of the Notification or by 22 or 32 months (where 37 CFR 1.495 applies) from the priority date, whichever is later. The period for response expired 03 June 2002, two months from the mail date of the Notification.

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On 16 April 2002, applicants filed a Declaration and Power of Attorney for Patent Application.

On 16 September 2002 the United States Designated/Elected Office (DO/EO) mailed a NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495 (Form PCT/DO/EO/903), which notified applicants that the submission of the application had been accepted under 35 U.S.C. 371, which established 16 April 2002 as the date of receipt of the 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements, and which established 16 April 2002 as the date of receipt of all 35 U.S.C. requirements.

On 04 October 2002, applicants filed the request to treat the application under 35 U.S.C. 111(a) and to correct the filing receipt. Applicants pointed out that line 2 of page 1 of the specification had identified the application as being a continuation of PCT/JP00/08549. This statement in the request appears to be a misstatement since the page 1 of the specification actually (and correctly) identifies the application as a continuation of PCT/JP01/02820.

#### Discussion

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). The official PTO Notice published in the Official Gazette at 1077 OG 13, entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of PCT)" states, in part, the following:

The Patent and Trademark Office is continuing to receive application papers which do not clearly identify whether the papers (1) are being submitted to enter the national stage of the Patent Cooperation Treaty (PCT) under 35 U.S.C. 371 or (2) are being filed as a regular national application under 35 U.S.C. 111.

If there are any conflicting instructions as to which sections of the statute (371 or 111) is intended the application the application will be accepted under 35 U.S.C. 111.

The papers which were filed by applicants in filing the application include the statement, "This application is a continuation of PCT/JP01/02820 filed on March 30, 2001" on the first page of the specification. This statement effectively defines the application as being filed under 35 U.S.C. 111(a) and conflicts with the transmittal letter for entry into the national stage under 35 U.S.C. 371 and with the fees for entry into the national stage under 35 U.S.C. 371. Therefore the papers for filing the application were not clearly identified as a submission under 35 U.S.C. 371. The application papers therefore should have been treated by the PTO as a filing under 35 U.S.C. 111(a).

Applicant is entitled to claim benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application for common subject matter, since this application (Ser. No.

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10/031,689) and the international application (PCT/JP01/02820) designating the United States were copending on 22 January 2002.

The filing fee paid by applicants was \$890. The filing fee for filing a national application on 22 January 2002 under 35 U.S.C. 111(a) was \$740. All national stage fees which were submitted by applicants with respect to this application will be applied to the U.S. national filing fees, and the overpayment by applicants of \$150 (the difference between \$890 and \$740) in filing the application as a national application under 35 U.S.C. 111 will be refunded.

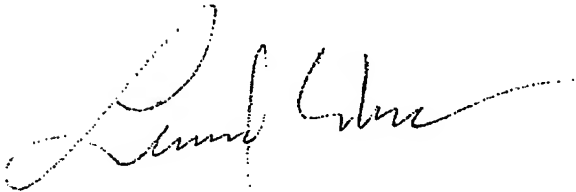
Conclusion

For the above reasons, Applicants' request is Granted.

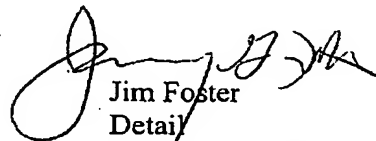
No fee is required for making the request.

This application has been accepted as a U.S. national application filed under 35 U.S.C. 111(a) with a filing date of 22 January 2002.

This application is being forwarded to Office of Initial Examination for treatment of the application papers as a filing under 35 U.S.C. 111(a) in accordance with this decision and for issuing a corrected filing receipt.



Leonard Smith  
PCT Legal Examiner  
PCT Legal Administration



Jim Foster  
Detail  
PCT Legal Administration

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OCT 03 2005

PTO/SB/44 (04-05)

Approved for use through 04/30/2007. OMB 0651-0033

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.  
(Also Form PTO-1050)**UNITED STATES PATENT AND TRADEMARK OFFICE  
CERTIFICATE OF CORRECTION**Page 1 of 1

PATENT NO. : 6,945,240

APPLICATION NO.: 10/031,689

ISSUE DATE : September 20, 2005

INVENTOR(S) : Nobuhiro KOBAYASHI; Shigemi KOBAYASHI; Takaai MATSUMOTO; Nozomi KAISE

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Application is to be treated as a U.S. national application filed under 35 U.S.C. 111(a) with a filing date of January 22, 2002.

**MAILING ADDRESS OF SENDER (Please do not use customer number below):**

Laubscher Severson  
1160 Spa Road, Suite 2B  
Annapolis, MD 21403

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

*If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.*

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